March 4, 2016

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act BRCRD 7/2016

On February 8, 2016 the Department of Business, Tourism, Culture and Rural Development received your request for access to the following records:

“the most recent briefing or informational material that would have been prepared for the minister on the Trans Pacific Partnership (TPP)”

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Business, Tourism, Culture and Rural Development to provide access to some of the requested information.

Access to the some information contained within the records was refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Sections: 34(1)(a) and 35(1)(g)

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

P.O. Box 8700, St. John’s, NL, Canada A1B 4X6 t 709.729.7000 f 709.729.4858
The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement’s website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 729-3356 or by email at wcomeau@gov.nl.ca.

Sincerely,

Wayne Comeau

ATIPP Coordinator

Enclosures
Disclosure harmful to intergovernmental relations or negotiations

34. (1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

   (a) harm the conduct by the government of the province of relations between that government and the following or their agencies:

      (i) the government of Canada or a province

Disclosure harmful to the financial or economic interests of a public body

35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

   (g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body
Trade Policy –
Upcoming Events

- AIT Offer of Exceptions: Dec 18th, 2015
  5 week long negotiating rounds between January and March Ministerial Meeting: January 25-26 in Toronto
- COF deadline to conclude AIT negotiations: March, 2016
- Ratification of TPP in 2017 (estimate)
- Entry into force of CETA: Spring 2017 (estimated)

Trade and Investment Branch
Trade Policy – Top Priorities

- AIT re-negotiations
- $400M Fisheries Investment Fund in CETA
- $25M Ferry Duty Remission Application
- CETA Ratification and Implementation
- TPP Ratification

Trade and Investment Branch
Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

- Canada's most comprehensive and ambitious trade agreement.
- Ratification and implementation in 2017.
- Major economic and policy implications for NL.

Trade and Investment Branch
Domestic and International Trade Responsibilities

Domestic Trade Agreements:
- Agreement on Internal Trade (AIT) and the Atlantic Procurement Agreement (APA)

International Trade Agreements:
- Bilateral and Multilateral FTAs
  - TPP, CETA, NAFTA etc.
- World Trade Organization (WTO)
- Foreign Investment Promotion and Protection Agreements (FIPAs)

Trade and Investment Branch

Newfoundland and Labrador
Business, Tourism, Culture and Rural Development
Trade Policy Division Staff

Director - Jeff Loder
- Chief negotiator for domestic/international trade agreements
- Oversees the analysis and preparation of trade policy/advice
- Oversees all trade policy related matters across government

Manager of International Trade Negotiations - Mark Janes
- Deputy Chief Negotiator
- Assists Director in all duties

Manager of Internal Trade - Richard Squires
- Manages Agreement on Internal Trade (AIT)
- Research and Analysis

Two Analysts (one shared position)
- Research and analysis
Trade Policy Mandate

- Advance and represent the province's interests in the negotiation of, or amendments to, domestic and international trade agreements.
- Provide strategic trade policy advice/analysis and direction in managing:
  - Trade agreement/negotiations
  - Investment agreements
  - Investment disputes
  - All trade policy related files across government
- Consult and advance the interests of key provincial stakeholders (crown agencies, government funded bodies, industry, associations, etc.)
Trade and Investment Branch

- Trade Policy
- International Business Development
- Investment Attraction
- Marketing
Meeting Note
Department of Business, Tourism, Culture and Rural Development
Minister Mitchelmore with Minister Freeland
Thursday, Jan. 28th, 4:30 – 5:00 pm
Minister Freeland’s Parliament Hill Office in Room 636-S (Centre Block)

Attendees:
• Honourable Christopher Mitchelmore, Minister of BTCRD
• Alastair O’Rielly, DM, BTCRD
• Brian Burke, ADM, BTCRD
• Honourable Chrystia Freeland, Minister of International Trade

Purpose of Meeting:
• Minister’s meeting with the Honourable Chrystia Freeland is to discuss various issues of importance to the Province of Newfoundland and Labrador around CETA and the Trans Pacific Partnership.

Background:

Canada-European Union Comprehensive Economic and Trade Agreement (CETA)
• CETA is the most ambitious and comprehensive trade agreement ever negotiated by either Canada or the EU. As the EU indicated early in the negotiations that matters in provincial jurisdiction were of key interest (e.g., government/local procurement and monopolies and government enterprises), provincial and territorial (PT) officials were granted unprecedented levels of access to the negotiations by the federal government.

• It is expected that CETA will be ratified by spring 2017. If either party fails to ratify CETA, the agreement will not come into force, and thus the measures of the agreement that gave rise to the need to create the fisheries investment fund (FIF) reference below, specifically the removal of Minimum Processing Requirement (MPRs), will not come into effect either.

• Potential benefits to NL through CETA include:
  o The elimination of 99.1 per cent of the fish and seafood tariff lines relevant to the Province are going duty free resulting in immediate annual savings of $25M;
  o The elimination non-tariff barriers on the province’s most lucrative fish and seafood products, creating opportunities for value added products and increased market access that could add over $100M annually to the fishing industry;
  o The elimination of tariffs on NL’s other exports to the EU, including those of key metal and mineral products, forestry products, advanced manufacturing, and agriculture and agri-food products;
  o The mutual acceptance of compliance assessments allowing provincial manufacturers to have their goods certified in Canada for sale into the EU; and
  o Improved access for service suppliers by relaxing temporary entry restrictions for Canadian citizens in key service areas. This will allow NL companies to better service goods sold into the EU.
Potential impacts of CETA on NL, aside from MPRs, include:

- Two additional years of patent protection for pharmaceuticals, which will affect all PTs, by increasing the cost of drugs. These costs are not expected to arise until 10 years after entry into force, and the federal government has committed to cover these costs.
- The Province agreed to include NL Hydro in its procurement offer, meaning that the Province would need to continue to offer open non-discriminatory procurement through NL Hydro, which is existing policy.
- The Province agreed to adopt parameters when directing procurement for the purposes of regional economic development.

**NL's role in CETA negotiations**

- While international treaty negotiations fall under federal jurisdiction, NL has taken the position that it will not be bound by any negotiations to which it is not a direct party.

- From the outset of its involvement in the negotiations, NL established that the removal of MPRs was not up for discussion. Throughout the negotiations, however, it became clear one of the EU's interests was the elimination of MPRs on fish and seafood destined to the EU. MPRs allow NL to set regulations on the minimum amount of processing that must occur on fish products before being exported.

- In the spring of 2013 the federal government informed NL that the removal of MPRs was necessary to achieving an agreement with the EU and to secure an ambitious fish and seafood offer from the EU. This was a significant request, especially as trade restrictions in other Provinces were protected, such as in British Columbia's lumber industry and Ontario and Quebec's wine industries.

- The Province decided to negotiate an agreement with the federal government to exchange MPRs for a $400M cost shared 70/30 federal/provincial FIF to be used for industry development and renewal. This agreement was reached through an exchange of letters from May 27-June 2, 2013, and was subsequently discussed through a series of meetings and letters between then and the present.

- On October 23, 2013 a phone conversation took place between the federal and provincial Ministers responsible for international trade to confirm the details of the FIF and to discuss its announcement. The outcome of this conversation was confirmed the following day in writing where the Province specifically outlined that it "will provide $120M towards the industry transition fund. This represents our 30 per cent share of the program, to which you have confirmed that the federal government will contribute $280M. We will announce this exciting new $400M funding partnership on Tuesday, October 29, 2013."

- Provincial officials were in contact with the federal Minister of International Trade's then Chief of Staff, Bill Hawkins (later to become the Prime Minister's Principal Secretary) from October 23, 2013 until the day of the announcement on October 29, 2013. NL was advised the federal government would likely not be able to participate in the announcement due to ministerial availability.

**Fisheries Investment Fund Impasse**

- Federal modifications to the FIF were introduced a year after the agreement was publicly announced. On May 14, 2014, the provincial Fisheries and Aquaculture Minister wrote the federal minister responsible for the Fund, Minister Moore of ACOA, to confirm his expectations for implementing and operationalizing the Fund. This letter went unanswered for four months.
Minister Moore responded to the May 2014 letter on October 24, 2014 suggesting that his officials meet with Provincial officials to begin discussions on the Fund. During the subsequent meeting on October 28, 2014, federal officials from ACOA introduced fundamentally new measures that were never agreed upon, or even discussed earlier.

The new measures introduced required:
- NL to demonstrate damages arising from eliminating MPRs before funding would flow; and,
- NL to focus the funding on assisting displaced workers instead of industry development and renewal in order to not adversely affect the Maritime Provinces. However, NL already receives federal funding through multiple agreements that could be utilized under the Department of Advanced Education and Skills (e.g., the Labour Market Development Agreement, the Targeted Initiative for Older Workers, and the Job Fund Agreement) to assist displaced workers.

During a Council of Atlantic Premiers Meeting in St. John’s on January 18-19, 2015, Premiers McNeil and Gallant recognized NL’s right to negotiate in its interest, but also publically questioned how measures could have a distorting impact on the competitiveness of the regional fishing industry.

The FIF is intended to support research and development, new marketing initiatives, fisheries science research, enhancements to provincial fisheries infrastructure, and workforce adjustment. Funding for the continuation of several fisheries programs, which are expected to be relevant to the new FIF, were set to expire in 2014. This funding was extended to ensure the province maintained capacity in key program areas until programs were established under the FIF.

The Fund was not conceived as a method to address the immediate impact on the removal of MPRs under CETA. However, given that under CETA, MPRs will be removed indefinitely, three years after CETA’s entry into force, for fish destined to the EU, over that timeframe it is likely that the fish market and consumer tastes could change, thus bringing about change in the Province’s fishery.

The provincial government’s judgment at the time, which was strongly endorsed by industry and retains the support of industry, was that an improved tariff offer from the EU on fish and seafood entering their market, together with a $400M development fund was worth the risk of relinquishing the protection afforded through MPRs for fish and seafood destined for Europe.

**Potential Speaking Points**

1. Newfoundland and Labrador is pleased with the overall outcomes of CETA and the opportunities the agreement will create for key industries in the Province.

2. The Province’s commitments under CETA, however, were premised on the agreement that the federal government would partner with Newfoundland and Labrador, as per the terms negotiated and agreed to in 2013, to establish a fund that would help prepare the Province’s fish and seafood sector for the loss of MPRs on fish and seafood destined to the EU.
• Newfoundland and Labrador wishes to see CETA implemented in its entirety, and the fisheries fund is a crucial component in allowing that to occur. Without the establishment of this fund, it is impossible to see how relinquishing the ability to impose MPRs is justifiable.

I know that the people and Government of Newfoundland and Labrador have greatly appreciated the support we have received from Prime Minister Trudeau on this matter.

I look forward to working with you to determine broadly agreeable means to proceed on the establishment of the fisheries fund.

Trans Pacific Partnership
• The TPP is a multilateral free trade agreement that aims to liberalize the economies of the Asia-Pacific region. Participating countries include Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam. The negotiating bloc covers 792M people with a combined GDP of $27.5T (40% of global GDP). The agreement is comprehensive including all key trade-related areas such as goods, services, and investment, although it is less ambitious than CETA.

As a result of the dispute related to the CETA FIF, on January 6, 2015, the Province advised the federal government in writing that it would not, in any way, continue to participate, or be bound by the outcomes of any trade agreement currently under negotiation by Canada. In addition, that correspondence instructed the federal government to include the following provision in any chapter where matters within provincial jurisdiction are addressed, in any trade agreement that is currently under negotiation: "With respect to Canada, this Chapter does not apply to any measure adopted or maintained by the Province of Newfoundland and Labrador." A review of the TPP text upon its release confirmed, as suspected, that this language was not included in the text of the agreement.

• Negotiations toward the TPP agreement concluded on October 5, 2015 and the agreement text was released on November 5, 2015 – this was first time that NL had an opportunity to review the final text as it withdrew from TPP negotiations.

• A preliminary review of the text indicated that all key provincial policies, such as the Atlantic Accord and MPRs, have been protected, and that substantial tariff relief for the Japanese and Vietnamese fish and seafood markets have been secured.

Potential Speaking Points
• Continuing to develop mutually beneficial trade relationship with key trading partners is important to Newfoundland and Labrador.